

**ASSEMBLY BILL**

**No. 1224**

**Introduced by Assembly Member Haynes**

February 22, 2005

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An act to add Sections 17053.89 and 23689 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1224, as introduced, Haynes. Income and corporation taxes: credit: qualified equity investments.

The Personal Income Tax Law and Corporation Tax Law authorize various credits against the taxes imposed by those laws.

This bill would allow a credit in an amount equal to 5% of the adjusted purchase price, as defined, paid or incurred by the taxpayer for a qualified equity investment, as defined, to the issuer of the investment. This bill would also make legislative findings and declarations with respect to the credit.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares the
- 2 following:
- 3 (a) The health, safety, and welfare of the people of this state
- 4 are dependent upon the continued encouragement, development,
- 5 growth, and expansion of the private sector within this state.

1 (b) It is necessary to increase access to capital in certain  
2 disadvantaged areas of the state and to encourage insurance  
3 companies to increase investment in those areas.

4 (c) The purpose of this act is to encourage and attract private  
5 sector capital investment to disadvantaged areas within this state.

6 SEC. 2. Section 17053.89 is added to the Revenue and  
7 Taxation Code, to read:

8 17053.89. (a) There shall be allowed as a credit against the  
9 “net tax,” as defined by Section 17039, an amount equal to 5  
10 percent of the adjusted purchase price paid or incurred during the  
11 taxable year for a qualified equity investment in this state by the  
12 taxpayer to the issuer of the qualified equity investment.

13 (b) For purposes of this section:

14 (1) “Adjusted purchase price” means the product of both of the  
15 following:

16 (A) The amount paid or incurred during the taxable year by  
17 the taxpayer to the issuer of a qualified equity investment in this  
18 state.

19 (B) A fraction, the numerator of which is the dollar amount of  
20 qualified low-income community investments held by the issuer  
21 of the qualified equity in this state (determined as of the  
22 immediately preceding credit allowance date), and the  
23 denominator of which is the total dollar amount of qualified  
24 low-income community investments made by the issuer  
25 (determined as of the immediately preceding credit allowance  
26 date).

27 (2) “Qualified equity investment” and “qualified low-income  
28 community investments” shall have the same meaning as given  
29 to those terms by Section 45D of the Internal Revenue Code.

30 (3) “Credit allowance date” means, with respect to any  
31 qualified equity investment, the date on which the investment is  
32 initially made, and each of the six anniversary dates of that date  
33 thereafter.

34 (c) The issuer of the qualified equity investment shall certify  
35 to the Franchise Tax Board the anticipated dollar amount of the  
36 investments to be made in the first 12-month period following  
37 the initial credit allowance date. If on the second credit allowance  
38 date the actual dollar amount of the investment is lower than the  
39 amount so estimated, the Franchise Tax Board shall recapture the

1 difference from the person who claimed the credit under this  
2 section.

3 (d) If any amount of the federal tax credit available with  
4 respect to a qualified equity investment that is eligible for a credit  
5 under this section is recaptured pursuant to Section 45D of the  
6 Internal Revenue Code, a portion of the credit granted with  
7 respect to the qualified equity investment shall be recaptured  
8 under this section. The percentage of the credit granted pursuant  
9 to this section that may be recaptured shall be equal to the  
10 percentage of the total federal credit earned with respect to the  
11 qualified equity investment that is recaptured pursuant to Section  
12 45D of the Internal Revenue Code.

13 (e) In the case where the credit allowed by this section exceeds  
14 the “net tax” the excess may be carried over to reduce the “net  
15 tax” in the following year, and succeeding years if necessary,  
16 until the credit is exhausted.

17 (f) The Franchise Tax Board shall promulgate rules or  
18 regulations, or both, as necessary to administer this section.

19 SEC. 3. Section 23689 is added to the Revenue and Taxation  
20 Code, to read:

21 23689. (a) There shall be allowed as a credit against the  
22 “tax,” as defined by Section 23036, an amount equal to 5 percent  
23 of the adjusted purchase price paid or incurred during the taxable  
24 year for a qualified equity investment in this state by the taxpayer  
25 to the issuer of the qualified equity investment.

26 (b) For purposes of this section:

27 (1) “Adjusted purchase price” means the product of both of the  
28 following:

29 (A) The amount paid or incurred during the taxable year by  
30 the taxpayer to the issuer of a qualified equity investment in this  
31 state.

32 (B) A fraction, the numerator of which is the dollar amount of  
33 qualified low-income community investments held by the issuer  
34 of the qualified equity in this state (determined as of the  
35 immediately preceding credit allowance date), and the  
36 denominator of which is the total dollar amount of qualified  
37 low-income community investments made by the issuer  
38 (determined as of the immediately preceding credit allowance  
39 date).

1 (2) “Qualified equity investment” and “qualified low-income  
2 community investments” shall have the same meaning as given  
3 to those terms by Section 45D of the Internal Revenue Code.

4 (3) “Credit allowance date” means, with respect to any  
5 qualified equity investment, the date on which the investment is  
6 initially made, and each of the six anniversary dates of that date  
7 thereafter.

8 (c) The issuer of the qualified equity investment shall certify  
9 to the Franchise Tax Board the anticipated dollar amount of the  
10 investments to be made in the first 12-month period following  
11 the initial credit allowance date. If on the second credit allowance  
12 date the actual dollar amount of the investment is lower than the  
13 amount so estimated, the Franchise Tax Board shall recapture the  
14 difference from the person who claimed the credit under this  
15 section.

16 (d) If any amount of the federal tax credit available with  
17 respect to a qualified equity investment that is eligible for a credit  
18 under this section is recaptured pursuant to Section 45D of the  
19 Internal Revenue Code, a portion of the credit granted with  
20 respect to the qualified equity investment shall be recaptured  
21 under this section. The percentage of the credit granted pursuant  
22 to this section that may be recaptured shall be equal to the  
23 percentage of the total federal credit earned with respect to the  
24 qualified equity investment that is recaptured pursuant to Section  
25 45D of the Internal Revenue Code.

26 (e) In the case where the credit allowed by this section exceeds  
27 the “tax” the excess may be carried over to reduce the “tax” in  
28 the following year, and succeeding years if necessary, until the  
29 credit is exhausted.

30 (f) The Franchise Tax Board shall promulgate rules or  
31 regulations, or both, as necessary to administer this section.

32 SEC. 4. This act provides for a tax levy within the meaning of  
33 Article IV of the Constitution and shall go into immediate effect.